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# GENERAL'S BACKERS ARE DISAPPOINTED

## Adm. Moorer Joins Criticism of Westmoreland Decision

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Special to The New York Times

WASHINGTON, Feb. 19 — Some retired military leaders and other supporters of Gen. William Westmoreland's libel suit against CBS today expressed disappointment at the outcome and disagreed with the general's claim he had won the vindication he sought.

Adm. Thomas H. Moorer, retired, who was Chairman of the Joint Chiefs of Staff from 1970 to 1974, said today he was "very disappointed" that General Westmoreland had agreed to settle the case without a jury verdict, a retraction or payment of damages by the network.

Judge Pierre N. Leval dismissed the jury in the Westmoreland case in Federal District Court in Manhattan saying "it may have been for the best that the verdict be left to history." [Page B6.]

Admiral Moorer had joined several other high-ranking retired officers in signing letters to raise money and in contributing themselves to help pay for the suit, which has cost almost \$3.5 million in legal fees for General Westmoreland's side alone.

"Knowing very little about the legal aspect, I wouldn't have quit at that point," the Admiral said, referring to the general's decision to drop his case about a week before the jury was to begin deliberations.

General Sparrow also helped raise money for the case. Neither Mr. Irvine nor Mr. McDonald contributed money to General Westmoreland's suit, but they supported him in pressing it. The American Legal Foundation has a complaint pending with the Federal Communications Commission to find the same CBS documentary in violation of the commission's fairness doctrine.

None of General Westmoreland's supporters criticized the general personally, however, or suggested that financial contributions for his suit had been misused.

### Dispute With Lawyer

Mr. Irvine said today that he had raised about \$40,000 for the Westmoreland case by 1983 but had ended up using most of it on other libel suits and refunding the rest to donors because Dan Burt, General Westmoreland's principal lawyer, refused to agree to document how the money was spent.

Mr. Irvine and Mr. Burt today traded barbs about one another's roles in the case.

Mr. Irvine said Mr. Burt had committed tactical errors in the trial because of "lack of experience in such matters," had been unreceptive to advice and had antagonized possible conservative donors by trying "to distance

himself from the conservative movement."

Asserting that the case had ended badly for those who believed that CBS had wronged the general, Mr. Irvine said, "Is it really worth \$8 million to get CBS to say you're not unpatriotic?" The \$8 million was an estimate of the cost of the case to both sides.

Mr. Burt dismissed Mr. Irvine's criticisms, saying he had refused to take money from Accuracy in Media for the case because he could not agree to conditions that would compromise the independence of the Capital Legal Foundation, his Washington-based non-profit law firm.

### Used Name Without Consent

Mr. Burt also accused Mr. Irvine of using General Westmoreland's name without his consent in a 1983 newspaper advertisement for Accuracy in Media. Mr. Irvine acknowledged today that the general had complained about the advertisement, adding that it had been a misunderstanding and he had expressed "my regrets" to the general.

Mr. Burt said Capital Legal Foundation, which he has headed since 1980, has worked on the Westmoreland case almost full time, at no charge to the general, since the suit was filed in September 1982.

Capital has been financed since before the Westmoreland case began primarily by conservative-leaning foundations, such as the Scaife Foundation and the Olin Foundation, and still gets most of its money from such groups, Mr. Burt said today.

But Mr. Burt rejected the label "conservative" and said he considered himself a "libertarian" dedicated to free-market economic principles and to checking the power of large organizations, including news organizations.

### Raised \$500,000

He also said Capital had raised about \$500,000 in contributions from individuals, mostly small donations by retired military men and others, for the Westmoreland suit.

Much of this money was donated in response to mass-mailed fund-raising appeals for Capital signed by Admiral Moorer and other retired top-ranking military men including Gen. Maxwell D. Taylor, another former Chairman of the Joint Chiefs, Adm. Arleigh Burke, a former Chief of Naval Operations and Gen. Curtis E. LeMay, former chief of the Air Force.

The individual donations also included about \$120,000 raised by a group called Veterans for Westmoreland that solicited contributions from West Point graduates and other veterans.

Mr. Burt said Capital had spent about \$3.3 million for the case while raising about \$2.9 million, leaving it about \$400,000 in debt. "I'll have trouble, but I'll do it," he said when asked how he would cover the deficit.

Mr. McDonald, of the American Legal Foundation, said the outcome of the Westmoreland case was "dispiriting for someone from my perspective." He said he believed CBS News had "acted maliciously and defamed" General Westmoreland and that a verdict by "a disinterested and neutral jury" would have established this.

He disagreed with General Westmoreland's assertion that CBS had in effect apologized by saying Monday that it did not think him "unpatriotic or disloyal in performing his duties as he saw them."

"They didn't really apologize," Admiral Moorer said. He noted that CBS continues to claim its documentary's assertion that General Westmoreland distorted estimates of enemy troop strength in Vietnam to deceive his superiors and the public was true. "I think they libeled him," he said.

Other Westmoreland supporters who expressed disappointment that the case did not go to a jury verdict included Reed Irvine, chairman of Accuracy in Media, Michael McDonald, general counsel of the American Legal Foundation, both conservative groups that often criticize news reports, and Maj. Gen. Herbert G. Sparrow, retired.